

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GREGORY LEE GRAY,
Petitioner,
v.
PEOPLE OF THE STATE OF
CALIFORNIA,
Respondent.

Case No. [18-cv-03248-PJH](#)

**ORDER GRANTING LEAVE TO
PROCEED IN FORMA PAUPERIS AND
DISMISSING CASE**

Re: Dkt. Nos. 2, 5

This is a habeas case brought pro se by a state prisoner regarding his 1997 conviction. Petitioner filed a previous case attacking the same judgment, *Gray v. Runnels*, C 01-2880 PJH (PR). That case was dismissed as barred by the statute of limitations and the dismissal was affirmed on appeal.

A subsequent habeas petition directed to the same conviction, *Gray v. Felker*, 09-2461 PJH (PR), was dismissed by this court as second or successive. Petitioner did not appeal that dismissal.

Petitioner then filed another petition attacking the same judgment, *Gray v. McDonald*, 10-0845 PJH (PR). As petitioner still had not obtained an order from the Ninth Circuit allowing him to file a second or successive petition, it also was dismissed. This court denied petitioner's motions for a certificate of appealability and for leave to proceed in forma pauperis on appeal, and in October of 2010 the Ninth Circuit issued an order declining to grant a certificate of appealability, terminating the appeal. The United States Supreme Court subsequently denied his petition for certiorari.

Petitioner filed additional habeas petitions, *Gray v. McDonald*, 10-5748 PJH (PR), *Gray v. Spearman*, 14-2437 PJH (PR) and *Gray v. People of the State of California*, 16-

1 0002 (PJH) (PR), that were also dismissed as second or successive. This court and the
2 Ninth Circuit denied his requests for a certificate of appealability in both cases. The
3 United States Supreme Court denied his petitions for certiorari in *Gray v. Spearman*, 14-
4 2437 PJH (PR) and *Gray v. People of the State of California*, 16-0002 (PJH) (PR)

5 A habeas petitioner may not file a second or successive petition unless he or she
6 first obtains from the appropriate United States Court of Appeals an order authorizing the
7 filing. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has still not obtained such an order from
8 the Ninth Circuit. Therefore this case is dismissed.

9 **CONCLUSION**

10 Petitioner's motion for leave to proceed in forma pauperis (Docket No. 5) is
11 **GRANTED**. The motion for a stay (Docket No. 2) is **DENIED** and the petition is
12 **DISMISSED** for the reasons set out above. Because reasonable jurists would not find
13 the result here debatable, a certificate of appealability ("COA") is **DENIED**. See *Slack v.*
14 *McDaniel*, 529 U.S. 473, 484-85 (2000) (standard for COA). The clerk shall close the file.

15 **IT IS SO ORDERED.**

16 Dated: June 27, 2018

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21 PHYLLIS J. HAMILTON
22 United States District Judge
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2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA

4 GREGORY LEE GRAY,
5 Plaintiff,

6 v.

7 PEOPLE OF THE STATE OF
8 CALIFORNIA,

9 Defendant.

Case No. [18-cv-03248-PJH](#)

CERTIFICATE OF SERVICE

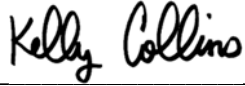
10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
11 District Court, Northern District of California.

12
13 That on June 27, 2018, I SERVED a true and correct copy(ies) of the attached, by placing
14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
15 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
16 receptacle located in the Clerk's office.

17
18 Gregory Lee Gray ID: J-05459
19 Correctional Training Facility
20 P.O. Box 705
21 Soledad, CA 93960

22 Dated: June 27, 2018

23
24 Susan Y. Soong
Clerk, United States District Court

25 By: 
26 Kelly Collins, Deputy Clerk to the
27 Honorable PHYLLIS J. HAMILTON
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